

McKool Smith

Robin L. Cohen
Direct Dial: (212) 402-9801
rcohen@mckoolsmith.com

One Manhattan West
395 9th Ave., 50th Floor
New York, NY 10001-8603

Telephone: (212) 402-9400
Facsimile: (212) 402-9444

December 5, 2019

Hon. Jesse M. Furman, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

The motion is granted temporarily. The Court will decide whether to keep the materials under seal when deciding the underlying motion. Plaintiff shall file any letter addressing whether the materials should remain under seal by **December 11, 2019**. The Clerk of Court is directed to terminate ECF No. 81. **SO ORDERED.**

RE: Hunt's Letter Motion for Sealing Documents
Berkley Assurance Company v. Hunt Construction Group, Inc.
1:19-cv-02879-JMF



Your Honor,

December 6, 2019

In accordance with the Joint Confidentiality Agreement and Order (ECF 37) (the "Order"), and Rule 7 of the Individual Rules and Practices in Civil Cases, Defendant Hunt Construction Group, Inc. ("Hunt") seeks leave via this letter motion to file under seal the following confidential documents, which are exhibits to the enclosed Declarations of Andrew Dopheide and Robin L. Cohen filed in support of Hunt's opposition to Berkley Assurance Company's ("Berkley") motion for summary judgment:

- Exhibit 17 – Construction Management Agreement, dated April 24, 2015, between South Florida Stadium, LLC and Hunt for the Hard Rock Stadium project.
- Exhibit 18 – deposition of Berkley's corporate claims designee, Walter John Adams, Jr., taken on October 22, 2019 in this litigation.
- Exhibit 19 – deposition of Berkley's corporate underwriting designee, Christian McQueen, taken on October 2, 2019 in this litigation.
- Exhibit 20 – deposition of Hunt's corporate designee, Robert May, taken on October 30, 2019 in this litigation.
- Exhibit 23 – Berkley's Construction Professional Underwriters Underwriting Guidelines for its PERFORM policies.
- Exhibit 24 – February 21, 2019 email Berkley sent to Hunt.
- Exhibit 25 – July 10, 2018 email that Hunt sent to Berkley.
- Exhibit 26 – February 15, 2019 email that Hunt sent to Berkley.

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- Exhibit 27 – February 19, 2019 email that Hunt sent to Berkley.

Each of these documents was either produced or generated during the course of discovery in this case and was designated by one of the Parties as Confidential under the terms of the Order.

Exhibit 17, produced and marked confidential by Hunt in this litigation, is a confidential contract that contains sensitive information regarding terms for a multi-million dollar construction project. Exhibits 18-20 are deposition transcripts that contain testimony of sensitive business and financial information that were agreed to be treated as confidential by the Parties. Exhibit 23, produced and marked confidential by Berkley in this litigation, appears to contain Berkley's sensitive business information in the form of extensive guidelines for its underwriting of its insurance policies. Exhibits 24-27, produced and marked confidential by Berkley in this litigation, are a series of communications regarding Berkley's handling of Hunt's requests for insurance coverage for the Claims that concern an active lawsuit against Hunt. Thus, these exhibits appear to qualify as confidential business information that should be kept confidential and under seal. *See* Order, §I.F. (defining "Confidential Information"); *Louis Vuitton Malletier, S.A. v. My Other Bag, Inc.*, 156 F. Supp. 3d 425, 445 n.7 (S.D.N.Y. 2016) (allowing for sealing "private business figures and communications").

As noted above, Berkley produced Exhibits 23-27 and designated the documents as confidential. Hunt requests that the Court afford counsel for Berkley an appropriate amount of time to make a submission to the Court concerning any additional reasons why Hunt believes such documents should be sealed. Berkley's counsel will receive a copy of this letter by e-mail or through the Court's ECF system.

Respectfully submitted,

McKOOL SMITH, P.C.

Jeffrey L. Schulman
PASICH LLP
757 Third Avenue, 20th Floor
New York, NY 10017
Tel: (212) 686-5000
jschulman@pasichllp.com

s/ Robin L. Cohen
Robin L. Cohen
One Manhattan West
395 9th Avenue, 50th Floor
New York, NY 10001-8603
Tel: (212) 402-9801
rcohen@mckoolsmith.com

Attorneys for Hunt Construction Group, Inc.

cc: All counsel of record (via email and ECF)